



Janice K. Brewer  
Governor

## State Of Arizona Board of Podiatry Examiners

"Protecting the Public's Health"

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Barry Kaplan, DPM; Joseph Leonetti, DPM; Barbara Campbell, DPM;  
M. Elizabeth Miles, Public Member; John Rhodes, Public Member; Sarah Penttinen, Executive Director

### ***BOARD MEETING MINUTES***

June 12, 2013; 8:00 a.m.  
1400 West Washington St., B1  
Phoenix, AZ 85007

Board Members: Joseph Leonetti, D.P.M, President  
Barry Kaplan, D.P.M., Member  
Barbara Campbell, D.P.M., Member  
M. Elizabeth Miles, Secretary-Treasurer  
John Rhodes, Public Member

Staff: Sarah Penttinen, Executive Director

Assistant Attorney General: John Tellier

#### **I. Call to Order**

The meeting was called to order at 8:08 a.m.

#### **II. Roll Call**

Dr. Leonetti, Ms. Miles and Mr. Tellier were not present. All other Board members were present as well as Ms. Penttinen.

#### **III. Review of new license applications for the following podiatrist:**

a. Nicole Kessel, DPM

Ms. Penttinen explained that Dr. Kessel had submitted all of the required documentation before the deadline to sit for today's oral exam. However, the deadline fell after the Board's May meeting so her application could not be reviewed at that time. Dr. Leonetti arrived during the time that this application was being reviewed and was able to review the file as well.

MOTION: Dr. Leonetti moved to approve Dr. Kessel to sit for the oral exam today and to approve her application for license pending successful completion of the exam. Dr. Campbell seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote with Ms. Miles absent.

#### **IV. Administration of oral licensing exam for the following applicants:**

- a. Kamran Farahani, DPM
- b. Nicholas Giovinco, DPM
- c. Nicole Kessel, DPM
- d. Mark Little, DPM
- e. Kenneth Mitchell, DPM
- f. Kaitlin Nelson-Rinaldi, DPM
- g. Jeffrey Thomas, DPM

MOTION: Dr. Leonetti moved to go into Executive Session for the purpose of administering the oral licensing examinations which are confidential. Dr. Kaplan seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote and the Board adjourned into Executive Session at 8:15 a.m.

The Board returned to Regular Session at 8:40 a.m. at which time Ms. Miles and Mr. Tellier were present.

**III. Review of new license applications for the following podiatrist:**

b. Dustin Doyle, DPM

MOTION: Dr. Leonetti moved to approve Dr. Doyle to sit for the oral exam in December 2013 and to approve his license upon successful completion of the exam. Dr. Campbell seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

c. Kenneth Mitchell, DPM

The Board had previously voted to allow Dr. Mitchell to sit for the oral exam today but to issue a substantive deficiency regarding action which was taken against his license in Michigan. Ms. Penttinen had obtained copies of all the relevant documents directly from the Michigan Podiatry Board and provided the following summary: In February 2011, Dr. Mitchell's license was suspended for six months and one day following allegations that he had allowed an unlicensed podiatrist to practice in his office. Dr. Mitchell requested a re-hearing and review of that action which was granted and the suspension was vacated. Subsequently Dr. Mitchell entered into a voluntary disciplinary agreement under which he was issued a \$1,000.00 civil penalty. The details of that agreement indicate that Dr. Mitchell had employed a former podiatrist as a medical assistant; however, that individual improperly referred to himself as a podiatry assistant and/or physician assistant.

Dr. Mitchell was present and spoke with the Board members. He explained that the individual whom he had hired had been a podiatrist but his license had previously been revoked. When this individual went before the Michigan Board to regain his license he misrepresented the activities and duties he had been performing under Dr. Mitchell's employment. It was noted in the disciplinary agreement that the Michigan Board found Dr. Mitchell had exercised proper supervision and limitation of this individual.

MOTION: Dr. Leonetti moved to approve Dr. Mitchell's application. Ms. Miles seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

**V. Approval of Minutes**

a. May 8, 2013 Regular Session Minutes.

MOTION: Dr. Kaplan moved to approve the minutes with correction of typographical errors. Mr. Rhodes seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

**VI. Review, Discussion and Possible Action –Review of Complaints**

a. 11-17-C – Peyman Elison, DPM: Improper post-surgical treatment including lack of antibiotics.

b. 11-18-C – Viedra Elison, DPM: Improper post-surgical treatment including lack of antibiotics.

There was brief discussion regarding the review of these two cases. The patient filed the complaint against both doctors who were both involved in her care and treatment in somewhat of an alternating or overlapping fashion. Mr. Tellier advised the Board that review and discussion of the overlapping facts could be discussed concurrently but the Board would need to make separate motions upon their conclusion. Both doctors were present with attorney David Cohen. Dr. Dedrie Polakof was the investigator for this case and was present.

The patient initially saw Dr. V. Elison due to problems with her Achilles tendons, left worse than right, and had requested information about walking shoes. An MRI was done and showed multiple tendon tears. Surgery was performed by Dr. P. Elison on 11/09/10. In an office visit on 12/08/10, the patient states both doctors had difficulty removing the staples from the surgical site and she was left with four large, open wounds. She was prescribed antibiotics and several follow-up with Dr. P. Elison for wound debridement. Another surgery was done by Dr. P. Elison on 01/13/11 to place skin grafts on three of the wounds. On 04/25/11 the patient was admitted to the hospital for several days of IV antibiotic treatment. She eventually had two additional surgeries with Dr. Mark Campbell to clean out the infection in her foot and remove a screw.

Dr. Polakof provided the following summary regarding case number 11-17-C for Dr. P. Elison: She had two main concerns. The first was the use of a sulfa antibiotic because the patient was on Coumadin. The second was the direction to the patient to stop Coumadin two weeks prior to the initial surgery. The patient is also a diabetic with a cardiac arrhythmia and had been advised by her cardiologist to stop the Coumadin four days prior to surgery. The patient followed the instruction of her cardiologist and no bridge therapy was used. Dr. Polakof provided the Board members with a chart of antibiotics and contraindications for their use with Coumadin. With regard to the staples in the incision site, they were left in for a very extended period of time. According to the patient, when Dr. P. Elison tried to remove them the staple remover was broken which was what caused the open wounds. The patient had full-thickness dehiscence and used a wound vac. The patient also had been concerned because when she went to the hospital (in April) the hospital staff could not get in contact with Dr. P. Elison and that was when she was referred to Dr. Campbell.

Dr. Polakof confirmed that the ulcerations which the patient developed were at the incision site where the staples had been placed and that staples had been used on all the incisions. She also clarified that the "screw" was actually an anchor used to attach the Achilles tendon and was the site of post-surgical osteomyelitis. Dr. Polakof reviewed the report prepared by Dr. Stephen Barrett who reviewed this case independently and found no problems with the surgical procedures done by Dr. P. Elison. Dr. Polakof concluded that the patient ended up with scar tissue and required additional correction surgeries, but she does not feel that there was any violation. Dr. Leonetti asked Dr. Polakof for her opinion with regard to the post-surgical treatment once the incision sites had opened up. She stated she had no concerns in this case but the post-surgical case was covered more by Dr. V. Elison in the associated case. Dr. Polakof confirmed for Dr. Leonetti that she found no problem with the surgery performed by Dr. P. Elison.

Dr. P. Elison then spoke with the Board members. He confirmed for Dr. Leonetti that there were no problems encountered until the staples were removed. At that time the wounds were already dehiscing due to the Coumadin and extensive swelling. The patient was transferred back to the care of Dr. V. Elison for wound care. Aggressive wound care was utilized including use of a wound vac and grafts. He stated that there was only difficulty with one wound not healing and the other three healed well. Dr. P. Elison was asked about the osteomyelitis and he stated he has not seen any pathology report to confirm it. The consent forms for the first surgery were reviewed. The Board members then tabled this matter to discuss 11-18-C.

Dr. Polakof provided the following summary for case 11-18-C for Dr. V. Elison: The patient saw Dr. V. Elison due to pain in her feet. The doctor recommended physical therapy. The patient was concerned because no x-rays were taken. The patient completed the physical therapy which increased her foot pain. The doctor ordered an MRI and referred the patient to Dr. P. Elison for a surgical consult. Following the surgery performed by Dr. P. Elison, Dr. V. Elison followed up with the wound care including assisting in removal of the staples. At that time the wound was starting to dehisce. Wound care was promptly initiated with topical care and a wound vac. On one of the last office visits the patient noted some redness and a culture was taken which was positive for staph. The patient was concerned that she was not placed on antibiotics. (The patient had documented history of allergies to penicillin and Cipro.) When asked by Dr. Polakof why the patient was not given antibiotics at that time, Dr. V. Elison stated the patient had already been on three courses of antibiotics and she did not feel it was necessary at that time. The patient was scheduled to return for follow up in one week. The Board members did not have any further questions for Dr. Polakof at this time.

Dr. V. Elison spoke to the Board members and stated she had advised the patient not to travel on her planned vacation (during the post-operative period) because she was not completely healed. She gave the patient several instructions regarding activity and weight-bearing which the patient admitted she did not follow. When the patient returned from a vacation she called the office complaining of complications and was given an appointment the same day but instead went to the emergency room (at which time she was admitted to the hospital). The doctor stated neither she nor Dr. V. Elison received any calls from the hospital because they were calling a different "Dr. Elison" on their list. There was then discussion regarding x-rays. Dr. P. Elison confirmed that she did not take any x-rays of this patient at any time; the only diagnostic exam was the MRI. Dr. Kaplan asked how she was able to form her initial diagnosis without x-rays and Dr. P. Elison stated she thought the patient's issues were all soft-tissue-related. Dr. V. Elison also confirmed that he did not take any pre-operative x-rays. He also said that there were no x-rays post-operatively during the wound treatment because the wounds were superficial. Dr. Leonetti advised that surgery which includes hardware placement should include post-operative x-rays especially if the patient develops complications. He also stated that a baseline x-ray prior to surgery would also be the standard of care. The other physician members agreed. Dr. Campbell asked if the patient's blood sugar levels were monitored as that would affect the healing process of the wounds. Dr. V. Elison stated that there was one CBC pre-operatively but no bloodwork post-operative.

The patient was present and addressed the Board. She was concerned regarding the last visit she had with Dr. V. Elison when the last wound which had not healed yet was cultured and came back positive for "a little bit" of staph. She did not understand why the doctor did not give her any antibiotics at that time but told her "everyone has a little bit of staph on their body." Dr. Leonetti advised the patient the Dr. V. Elison was correct with regard to the staph, even on an open wound, but her choice of treatment was up to her. The patient discussed the location where she had developed an abscess as well as areas where she had reported to the doctor that her skin was red and painful to the touch. She stated she followed all of the wound cleansing directions she was given. She contacted the doctor's office while she was out of town in California and was given an appointment for the day after her return to town, but she was in too much pain and went to the emergency room. After she was admitted to the hospital she was told that there was extensive infection in her foot and lower leg. Dr. Thompson performed an MRI and performed surgery to clean all of the infection out. Dr. Leonetti asked the patient if Dr. P. Elison had advised of the risks of the original surgical procedure including increased risk of infection due to her diabetes. She stated she was told the recovery would take months and she was advised of the risks, but she did not expect the level of complications she encountered or the need for additional surgeries.

The Board members reviewed the History & Physical that was done by Dr. V. Elison when she first began treating the patient. The patient had disclosed a history of a tendon tear in her foot and many years of pain. Dr. Kaplan questioned Dr. P. Elison again regarding why he did not perform any pre-operative x-rays. The doctor said he did not have any reason why, he just did not think of it. The Board members also reviewed with Dr. P. Elison the initial evaluation and H&P he performed prior to surgery. Dr. Leonetti stated that with regard to 11-17-C, the patient had a high level of co-morbidities which could increase complications. However, the patient was aware of those potential complications and chose to go forward with surgery. Ultimately he does not find any problems with the procedure itself. However, he remains concerned about the lack of x-rays both pre- and post-operatively, particularly since there is x-ray capability in the doctors' office. He feels a Letter of Concern in this regard would be appropriate. Dr. Campbell agreed.

#### **11-17-C**

**MOTION:** Dr. Leonetti moved to issue a Letter of Concern for lack of pre- and post-operative x-rays. Ms. Miles seconded the motion.

**DISCUSSION:** There was no discussion on the motion.

**VOTE:** The motion passed unanimously by voice vote.

Before the Board began deliberating action on 11-18-C, the patient requested to make additional comment. The patient stated she was never told by Dr. V. Elison that she should not travel to California. She was told she would be fine as long as she followed the wound care instructions the doctor gave her.

Dr. V. Elison responded and stated she did have a discussion with the patient and expressed her concerns about traveling but the patient insisted she must go due to an important family occasion.

Dr. Leonetti stated he feels the wound care was appropriate and met the standard of care. He added that wounds are often difficult to heal, especially in diabetic patients with other co-morbidities. He does not find any particular problem with the lack of antibiotics after the small amount of staph was found in the wound. But he finds that there is an issue with the lack of x-rays and that the pre-operative MRI was not sufficient. Dr. Kaplan agreed.

**MOTION:** Mr. Rhodes moved to go into Executive Session for the purpose of obtaining legal advice. Dr. Leonetti seconded the motion.

**DISCUSSION:** There was no discussion on the motion.

**VOTE:** The motion passed unanimously by voice vote and the Board adjourned into Executive Session at 10:23 a.m.

The Board returned to Regular Session at 10:28 a.m.

Dr. Leonetti stated that the outcome of this case is unfortunate, but complications can occur and the patient was aware of that. He feels that both doctors took appropriate action to treat the wound complications as they occurred. He remains concerned with the lack of x-rays.

**11-18-C:**

**MOTION:** Dr. Leonetti moved to dismiss this case with a Letter of Concern for lack of post-operative x-rays. Ms. Miles seconded the motion.

**DISCUSSION:** There was no discussion on the motion.

**VOTE:** The motion passed unanimously by voice vote.

**VII. Review, Discussion and Possible Action – Probation / Disciplinary Matters**

**a. 08-44-C – Alex Bui, DPM: Monthly update.**

The Board members reviewed documentation from Dr. Bui indicating that he had no billing for DME for the months of April and May.

**b. 09-17-B – J. David Brown, DPM: Monthly update.**

The Board members reviewed emails between Ms. Penttinen and Dr. Sucher. Ms. Penttinen had requested copies of Dr. Brown's drug screens and was told that they would be sent; however, they have not yet been received. Dr. Sucher was aware of the date of this Board meeting. Ms. Penttinen suggested that a subpoena may be necessary rather than informal request. The Board members agreed and Ms. Miles suggested that Ms. Penttinen contact Dr. Sucher to let him know the subpoena will be sent so he is not surprised when he receives it. Dr. Kaplan also noted that there has been difficulty getting Dr. Brown's pain management evaluation due to an upcoming surgery. Dr. Brown also has been re-prescribed narcotic pain medication. Ms. Miles suggested that Dr. Brown be asked to appear before the Board for an interview per the terms of his consent agreement to discuss his medical history as well as information which indicates he is closing his practice. The other Board members were in agreement. Ms. Penttinen will request that Dr. Brown appear at the July 10, 2013 meeting.

**c. 11-21-M – Robert Fridrich, DPM: Monthly update.**

Dr. Leonetti advised that he reviewed the one chart submitted by Dr. Fridrich for the month of May. He stated everything is thorough and in compliance with the probation terms.

**d. 13-05-B – Kathleen Stone, DPM: Monthly update.**

The Board members reviewed documentation submitted by Dr. Stone to verify that she is complying with the counseling requirement of her consent agreement. She is in compliance with all other terms of the agreement.

**VIII. Review, Discussion and Possible Action on Administrative Matters**

**a. CME approval request from AzPMA.**

The Board members reviewed a CME approval request from the Arizona Podiatric Medical Association. The request includes five hours for the AzPMA meeting on July 12 and 13, 2013 regarding surgical topics and five hours on October 26, 2013 regarding practice management issues.

**MOTION:** Dr. Kaplan moved to approve the request for both CME programs. Dr. Leonetti seconded the motion.

**DISCUSSION:** There was no discussion on the motion.

**VOTE:** The motion passed unanimously by voice vote.

**b. CME approval request from APMA.**

The Board Members reviewed a CME approval request from the American Podiatric Medical Association. The request is for up to 31 hours for their Annual Scientific Meeting in July of this year.

**MOTION:** Dr. Leonetti moved to approve the CME request. Dr. Campbell seconded the motion.

**DISCUSSION:** There was no discussion on the motion.

**VOTE:** The motion passed unanimously by voice vote.

**c. Review of license renewal and/or dispensing registration renewal for the following podiatrists:**

Steven Abrams  
Jason Allen  
David Armstrong  
Shahram Askari  
Stephen Barrett  
Randy Bernstein  
Darin Bocian  
Scott Boggs  
Randall Brower  
Allison Cheney  
Luke Cicchinelli  
Jamie Coffey  
Charles Connell  
Jeffrey Copoloff  
Heather Couch  
Scott Crampton  
James Dancho  
Brian Dechowitz  
Michael Dershowitz  
Alan Discont  
Joseph Dobrusin  
Jessica Duggan  
Susan Erredge  
Robert Evans  
Dale Feinberg  
William Fishco  
Timothy Fisher  
Lewis Freed  
Robert Fridrich  
Erwin Friedman  
Robert Frykberg  
Todd Galle  
Kelley Gillroy  
Jay Glasser  
Eugene Goldman  
Mark Gorman  
Douglas Griffin  
Todd Gunzy  
Maria Haddad  
Todd Haddon  
Thomas hale

Hugh Hall  
Myron Hansen  
William Harrant  
John Harlan  
Daniel Hatch  
Brad Hayman  
Ronaldo Holgado  
Mia Horvath  
Patrusia Howansky  
Derek Hunchak  
Whitney Hunchak  
David Jaffe  
Kristina Jezidzic  
Barry Kaplan  
Lee Keenen, Jr.  
Edward Kelly  
Lester Kleib  
Barbara Kluger  
Joseph Knochel  
Greg Krahn  
Janna Kroleski  
Alan Kravitz  
Jean Kroyn  
Todd Lamster  
Kimberly Leach  
David Lee  
William Leonetti  
Bruce Levin  
James Longton  
Gregory Loo  
Therese Losi  
Stanley Lubeck  
Neil Mansdorf  
John Marin  
Ivan McLaws  
Robert Mendicino  
Peter Merrill  
Pierre Momjian  
Eduardo Montes  
Aprajit5a Nakra  
Serjik Nazarian

Robert Novack  
Kevin O'Brien  
Marie Paul  
Jeffrey Pawlowski  
Arlene Polakof  
Dedrie Polakof  
Jess Price  
Scott Price  
Richard Quint  
Richard Rand, III  
Kelly Reber  
H.W. Reese  
Richard Robinson  
Glen Robison  
Andrea Roemer  
Kenneth Rowe  
Maria Sangalang  
Payam Sarraf  
Valerie Schade  
Timothy Sekosky  
Paul Selander  
Gilbert Shapiro  
Allen Sherman  
Alan Shih  
James Schoffer  
Don Shumway  
Peter Sidorik  
Donald Siegel  
Glenn Silverstein  
Michael Stegman  
John Tassone  
Phillip Tutnauer  
Paul; Warner  
Jeffrey Weiss  
Bruce Werber  
Paul Woodward  
Scott Wyant  
Serrina Yozsa  
Kerry Zang  
Lee Zielsdorf  
Larry Zonis

Dr. Kaplan recused himself from the review of his license renewal application.

MOTION: Dr. Leonetti moved to renew the renewal application for Dr. Kaplan. Ms. Miles seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote with Dr. Kaplan recused.

Dr. Leonetti recused himself from the review of the license renewal application of Dr. William Leonetti.

MOTION: Dr. Campbell moved to approve the license renewal application for Dr. William Leonetti. Dr. Kaplan seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote with Dr. Leonetti recused.

MOTION: Ms. Miles moved to issue a substantive deficiency to Dr. Jessica Duggan regarding her continuing medical education. Dr. Leonetti seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

MOTION: Dr. Kaplan moved to approve the license renewal applications of all other physicians listed above. Mr. Rhodes seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote.

## **IX. Executive Director's Report – Review, Discussion and Possible Action**

### **a. Five-year Rules Review required by the Governor's Regulatory Review Council.**

Ms. Penttinen explained that once every five years the Board is required by the Governor's Regulatory Review Council, ("GRRC"), to complete a formal review of the agency's Rules under the Arizona Administrative Code. The review is to determine things such as whether the Rules are effective, necessary, and appropriate, and any financial impact caused by the Rules. She has hired an outside consultant who is a professional Rules writer to complete the review. Ms. Penttinen had made some suggestions for changes to the Rules including eliminating all references to provisional licenses as that was taken out of Statutes, and to change the wording of "PMLexis exam" to "PMLexis or National Boards Part III" because the National Board formally changed the name of the exam. Ms. Penttinen also would like to change the administrative and substantive review time frames for license renewal and CME approval from 15 days and 45 days, respectively, to 30 days and 30 days. The Board members were in agreement with these proposed changes.

Dr. Kaplan offered discussion regarding upcoming changes to the HIPAA laws: effective this October, healthcare providers will be required to provide patients with copies of their medical records within 30 days of receiving a request from the patient. There was brief discussion as to whether this would need to be incorporated into the Board's laws. Ms. Penttinen advised that there is a provision in the Board's statutes regarding a licensee violating any other law, including federal laws, in relation to the practice of podiatry which this new HIPAA law would be part of.

Ms. Penttinen also asked the Board members to discuss and review the Rules regarding dispensing registrations. The current Rules require that a doctor have a current DEA certificate in order to have the Board's dispensing registration which includes dispensing both pharmaceuticals and DME. Ms. Miles asked the Physician members whether DEA has any jurisdiction or regulation authority of DME and the Physician members advised that they do not. There was discussion among the Board members regarding the intent of the Rules when they were written and whether or not the requirement of a DEA certificate is appropriate if a podiatrist only wants to dispense DME. Dr. Leonetti stated that he feels the dispensing registration should be required but only for medications, not orthotics or other DME. The other Board members were in agreement. Ms. Penttinen advised that there would be a financial impact in the way of lost revenue if the registration were no longer needed for DME. Although the change is

deemed appropriate, she will have to explain the financial impact to GRRC. At this time the Board is in a very stable financial position, but this change would eventually cause an effect which may require modest fee increases in other areas in the future. Ms. Miles stated she is opposed to maintaining any law only due to financial reasons, with which the other Board members agreed.

MOTION: Ms. Miles moved to amend the Board's Rules under Article 6 regarding the dispensing registrations to eliminate all references to DME. Dr. Leonetti seconded the motion.  
DISCUSSION: There was no discussion on the motion.  
VOTE: The motion passed unanimously by voice vote.

**b. Open complaint status report.**

Ms. Penttinen advised that she neglected to print the report prior to the meeting. She has received only one new complaint in the last month;

**c. Malpractice case report. (None at this time.)**

**X. Call To The Public**

There were no requests to speak during the call to the public.

**XI. Next Board Meeting Date:**

a. July 10, 2013 at 8:30 a.m.

**XII. Adjournment**

MOTION: Ms. Miles moved to adjourn the meeting. Dr. Kaplan seconded the motion.

DISCUSSION: There was no discussion on the motion.

VOTE: The motion passed unanimously by voice vote and the meeting was adjourned at 11:38 a.m.